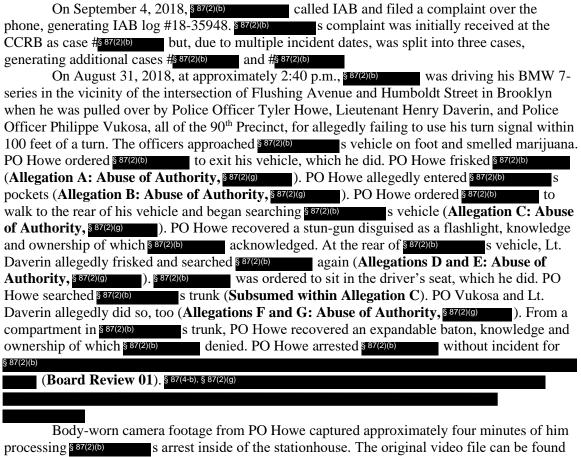
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force		Discourt.	☐ U.	S.
Conor O'Shea		Squad #6	201808128	Ø	Abuse		O.L.	☐ Inj	jury
Incident Date(s)		Location of Incident:		Precinct:		18 Mo. SOL		EO S	SOL
Friday, 08/31/2018 2:45 PM		Flushing Avenue and l	Humboldt Street	et 90 2/29/2020			2/29/	2020	
Date/Time CV Reported		CV Reported At:	How CV Reported	l:	Date/Time Received at CCRB				
Tue, 09/04/2018 11:10 AM		IAB	Phone		Mon, 09/17/2018 11:14 AM				
Complainant/Victim	Type	Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. POM Tyler Howe	14840	961822	090 PCT						
2. LT Henry Daverin	00000	945645	090 PCT						
3. POM Philippe Vukosa	22128	953542	090 PCT						
Officer(s)	Allegation	on			Inve	estiga	ator Recor	nmenda	ıtion
A.POM Tyler Howe	Abuse: F	Police Officer Tyler Hov	we frisked § 87(2)(b)						
B.POM Tyler Howe	Abuse: F	Police Officer Tyler How	we searched § 87(2)(b)						
C.POM Tyler Howe	Abuse: F which § 8	Police Officer Tyler How 7(2)(b) was an o	we searched the vehi	cle ir	n				
D.LT Henry Daverin	Abuse: I	Lieutenant Henry Daveri	in frisked § 87(2)(b)						
E.LT Henry Daverin	Abuse: I	Lieutenant Henry Daveri	in searched § 87(2)(b)						
F.POM Philippe Vukosa	Abuse: F in which	Police Officer Philippe V § 87(2)(b) was a	/ukosa searched the n occupant.	vehic	cle				
G.LT Henry Daverin	Abuse: I which § 8	Lieutenant Henry Daveri 7(2)(b) was an o	in searched the vehicoccupant.	cle in					
§ 87(4-b), § 87(2)(g)									
§ 87(4-b), § 87(2)(g)									
1									

Case Summary



in IA #31 (Board Review 02), and the summary can be found in IA #32 (Board Review 03). There is no other video evidence in this case.

Findings and Recommendations

Allegation A—Abuse of Authority: Police Officer Tyler Howe frisked \$87(2)(b)
Allegation B—Abuse of Authority: Police Officer Tyler Howe searched \$87(2)(5)
Allegation C—Abuse of Authority: Police Officer Tyler Howe searched the vehicle in which
was an occupant.
Allegation D—Abuse of Authority: Lieutenant Henry Daverin frisked 387(2)(5)
Allegation E—Abuse of Authority: Lieutenant Henry Daverin searched § 87(2)(b)
Allegation F—Abuse of Authority: Police Officer Philippe Vukosa searched the vehicle in
which § 87(2)(b) was an occupant.
Allegation G—Abuse of Authority: Lieutenant Henry Daverin searched the vehicle in which
was an occupant.

An attorney was consulted regarding these allegations.

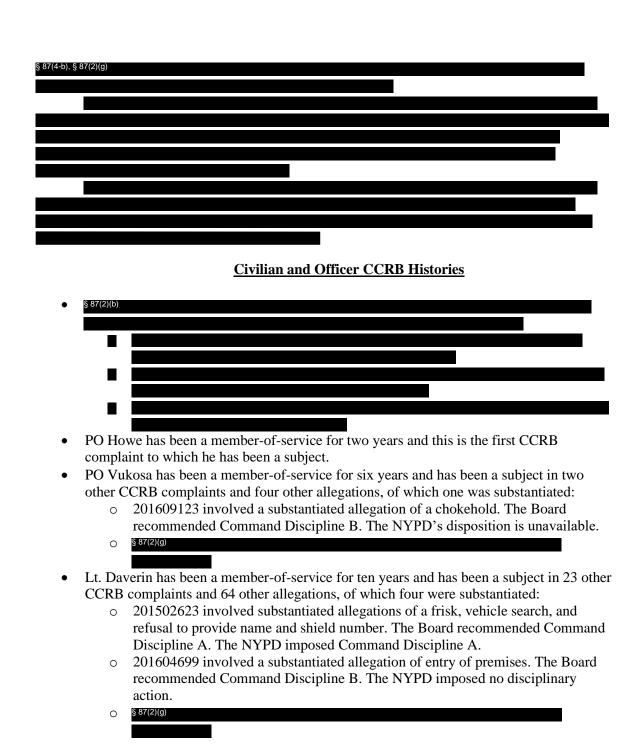
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It is undisputed in this case that, on August 31, 2018, at approximately 2:40 p.m.,
was driving a 7-series BMW in the vicinity of Flushing Avenue and Humboldt Street in
Brooklyn when he was pulled over by PO Howe, PO Vukosa, and Lt. Daverin, who were
traveling in an unmarked sedan, for allegedly failing to use his turn signal within 100 feet of the
turn. It is further undisputed that PO Howe ordered § 87(2)(b) to exit his vehicle and frisked
his waist, groin, and upper thigh area, that PO Howe ordered \$87(2)(b) to stand at the rear of
his vehicle with Lt. Daverin while PO Howe searched searched vehicle, and that two pieces
of contraband, for which §87(2)(b) was arrested, were recovered from his vehicle: a stun-gun
disguised as a flashlight in the center console, and an extendable baton in the trunk. Given that
was ultimately arrested, a vehicle stop allegation was not pleaded.
In his verified CCRB interview, §87(2)(b) (Board Review 03) provided an account
generally consistent with his earlier statements, which were brief phone statements, with the
following additions and inconsistencies. PO Howe and Lt. Daverin approached §87(2)(b)
vehicle on the driver's side while PO Vukosa approached on the passenger's side. §87(2)(b)
repeatedly denied that there was any marijuana smoke in his vehicle, but admitted that there
"probably" was a "stench" of smoke present, "because it's my cousin [sic]." When asked to
further describe the possible "stench" in the BMW, \$87(2)(b) stated that it "could've been
cigarettes," "hookah," or "little hookah things." During his second brief phone statement,
however, \$87(2)(b) denied knowing what marijuana even smells like. PO Howe patted down
s waist, groin, and upper thigh area. PO Howe entered both of \$87(2)(b) s pants
pockets. Lt. Daverin escorted \$87(2)(6) to the rear of his vehicle while PO Vukosa began
searching the vehicle. At the rear of the vehicle, Lt. Daverin patted down \$87(2)(b) like PO
Howe had done, and also entered his pockets. In \$87(2)(b) s second brief phone statement,
however, \$87(2)(b) (Board Review 04) did not allege that Lt. Daverin frisked or searched
him. PO Howe and PO Vukosa both searched \$87(2)(b) s vehicle. The search of \$7(2)
s front and back seats concluded with no contraband recovered. \$87(2)(b) was
returned to the driver's seat while PO Howe, PO Vukosa, and Lt. Daverin all gathered at the rear
of his vehicle, opened the trunk, and searched it. In his second brief phone statement, however,
(Board Review 04) did not allege that Lt. Daverin searched his vehicle. Later, at
that his vehicle had been searched again and this
time a stun-gun had been found. PO Howa (Roand Paving 05) tagtified that upon approaching (SCO)
PO Howe (Board Review 05) testified that upon approaching \$87(2)(6) s vehicle, he smelled an odor of marijuana and asked \$87(2)(6) if he had been smoking. \$87(2)(6) said
he had smoked earlier in the day. PO Howe ran \$87(2)(b) s license on his department-issued
cell phone and viewed \$87(2)(b) s arrest history. PO Howe conducted the frisk because of
s arrest history as well as the bagginess of his sweatshirt. PO Howe denied entering
s pockets. PO Howe ordered \$87(2)(b) to stand at the rear of his vehicle with PO
Vukosa and Lt. Daverin. Meanwhile, PO Howe entered \$87(2)(b) s vehicle and searched the
front seat area, at which point he recovered a VIPERTEK brand stun-gun disguised as a flashlight
in the center console area. PO Howe exited the vehicle and walked to the trunk while PO Vukosa
and Lt. Daverin escorted \$87(2)(5) to the driver's side door and ordered him to sit in the front
seat, which he did. PO Howe searched \$87(2)(0) strunk, at which point he discovered an
extendable baton in a closed first-aid kit compartment. PO Howe arrested \$87(2)(b) without
incident and transported him to the 90 th Precinct stationhouse. PO Howe denied that either PO
Vukosa or Lt. Daverin frisked §87(2)(b) or entered his pockets, and denied that either PO
Vukosa or Lt. Daverin searched § 87(2)(b) s vehicle.

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PO Vukosa (Board Review 06) provided testimony that was generally consistent with PO Howe with the following inconsistencies. Although PO Vukosa did not smell any marijuana while standing outside the vehicle, he did detect an odor of probably-burnt-smelling marijuana while seated inside of society society society society society. It Daverin (Board Review 07) provided testimony that was generally consistent with PO Howe and PO Vukosa with the following inconsistencies. As Lt. Daverin, PO Howe, and PO Vukosa exited the patrol car, Lt. Daverin immediately smelled a "strong" odor of non-burnt marijuana emanating from society society. Society society society strong society society society society. Society society. Society society. Society socie
§ 87(2)(g)
An officer has probable cause to conduct a warrantless search of a vehicle and its occupants if, during a vehicle stop, that officer detects either the odor of marijuana smoke in particular, People v. Chestnut, 43 A.D.2d 260 (1974) (Board Review 08), or even the unspecified odor of marijuana in general, People v. Smith, 66 A.D.3d 514 (2009) (Board Review 09). [887(2)(9)
§ 87(2)(g)
3 or (±)(9)
§ 87(4-b), § 87(2)(g)

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Mediation, Civil and Criminal Histories

• §87(2)(b) declined to mediate this complaint.

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Review 13). § 87(2)(b) (Board Review 14). Squad No.: Investigator: Signature Print Title & Name Date Squad Leader: __ Signature Print Title & Name Date Reviewer: Signature Print Title & Name Date

A Notice of Claim request was submitted to the New York City Comptroller's Office on November 28, 2018. That request is still pending as of the writing of this report (**Board**

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